

## **Participant Information Sheet**

*(Legal Practitioners – Barristers)*

**Title of Project: Private Antitrust Enforcement: Facilitating Injured Parties' Access to Legal Remedies in Competition Law Cases**

**Researcher name: Dr Mihail Danov, University of Exeter, UK**

### **Invitation and brief summary:**

*This is an empirical research project which seeks to consider how the effectiveness and efficiency of the current antitrust damages regime in the UK should be enhanced with a view to improving access to justice in competition law cases in English and Welsh courts, and the UK Competition Appeal Tribunal. New empirical data will be generated to provide information about the factors driving settlements in the past as well as about the factors impeding settlements (in cases which are still pending). The newly collected data will be analysed, in order to capture the static and dynamic aspects of the existing enforcement pattern, identifying any procedural deficiencies, which would need to be addressed with a view to facilitating the injured parties' timely access to effective legal remedies.*

*The project is carried out by Dr Mihail Danov from the University of Exeter. He is supported by an Advisory Board which involves Jon Lawrence (Brick Court Chambers), Nicholas Frey (Freshfields Bruckhaus Deringer LLP), Omar Shah (Morgan, Lewis & Bockius LLP) and Professor Barry Rodger (University of Strathclyde). The Advisory Board is set to allow for the involvement of legal practitioners from outside academia in the discussion of the procedural issues and aspects concerning settlement dynamics in competition cases. The Advisory Board also provides non-binding strategic advice with a view to factoring recent market developments as well as with a view to promoting the project and maximising its impact. The advanced arrangements should ultimately lead to collaborative (co-authored) research outputs that will generate significant impact inside and outside academia.*

*You were randomly selected as a potential participant in our research project on the basis of your expertise in the field. I very much hope that you would be willing to take part in this study.*

### **Purpose of the research:**

*The overarching research objective is for this pilot study to promote wider discussions which are central to the advancement of a procedural regime which enables adjudicators to deal efficiently and robustly with the merits of competition law cases. The newly generated data will enable the study to demonstrate that the procedural rules are central to improving access to justice in cross-border competition law cases. On this basis, the project shall start considering whether addressing and reducing the existing procedural deficiencies should enable the UK to devise an effective and efficient antitrust damages regime which may be applied in cross-border cases, post-Brexit.*

*The pilot study is based on the hypothesis that existing procedural deficiencies inflate litigation costs, which in turn adversely affect private parties' access to justice in cross-border competition law cases. The research methodology for this pilot study is developed around litigants' strategies. For the purposes of this pilot study, it is assumed that litigants' strategies can influence the outcome of a competition law case.*

### **Why have I been approached?**

*In order to test the above hypotheses, empirical data will be collected which should capture the pre-trial issues which might be tactically exploited by strategic parties. The various procedural aspects will be identified with a view to considering how they shape parties' strategies in the light of the claims' attributes. The study will involve the collection of quantitative and qualitative data. As part of this pilot study, Dr Danov will survey relevant law firms and litigation funders. The collected data should provide information about the static aspects of the cross-border litigation pattern (eg number of claims; frequency of follow-on claims; value of the claims; costs). Also, semi-structured interviews will be*

conducted with randomly selected legal practitioners (barristers; solicitors) to discuss the dynamic aspects of the cross-border litigation pattern (eg litigants' strategies).

The list with names of barristers was drawn from the Legal 500 and Chambers and Partners where they have featured on the basis of their experience with competition law matters. You have been approached because your name features in our list of barristers, and you were randomly selected as a potential participant in our research project on the basis of your expertise in the field.

### **What would taking part involve?**

I hope that you would be willing to participate in a brief, informal interview over Zoom or Microsoft Teams (during your office hours and at your convenience) with me. I would speak with you on how the private antitrust enforcement regime is functioning at the moment and how it could (and/or should) be developed with a particular focus on procedural rules.

An indicative list of the interview questions is attached.

The interview would last approximately 60 minutes.

If you decide to take part in our research study, please contact me at [M.Danov@exeter.ac.uk](mailto:M.Danov@exeter.ac.uk).

### **What are the possible benefits of taking part?**

I cannot promise any specific benefits. In the short-term, the project aims to set up an AHRC Research Network, in order to promote knowledge exchange and engagement activities, involving a range of potential beneficiaries (policy-makers, solicitors, barristers and academics).

In the long-term, the pilot study will set the scene for a collaborative empirical project which is to ascertain how the effectiveness and efficiency of the current antitrust damages regime could be enhanced by improving access to justice in cross-border cases in the UK.

### **What are the possible disadvantages and risks of taking part?**

Although the risk for a legal practitioner revealing confidential information about their client's case is minimal (because they have developed an ability to safeguard their clients' confidentiality), the interviewer will make sure that any such information will be redacted from the interview transcript.

In order to minimise any risks in this respect, an anonymised interview transcript - containing fully anonymised research data - will be sent out to each and every participant, giving them the opportunity to make any final alterations which they deem necessary.

### **What will happen if I don't want to carry on with the study?**

Interview participants have the right to abstain from participation in the study or to withdraw their consent to participate at any time without having to give any reasons for their decision.

It will be possible for research participants to withdraw their data by informing Dr Danov < [M.Danov@exeter.ac.uk](mailto:M.Danov@exeter.ac.uk) >. The withdrawal of data in response to such a request will entail for the personal and research data to be securely destroyed by shredding and disposal as confidential waste of any hard copies and by secure electronic deletion of any electronic copies.

That said, since the research data which is deposited with the UK Data Archive will be fully anonymised, it may not be possible for the relevant interview transcript to be identified. In other words, it may not be possible for the interview participants to withdraw their participation and data after 31 January 2023 (i.e. when the data should be deposited with the UK Data Archive).

### **How will my information be kept confidential?**

The University of Exeter processes personal data for the purposes of carrying out research in the public interest. The University will endeavour to be transparent about its processing of your personal data and this information sheet should provide a clear explanation of this. If you do have any queries about the University's processing of your personal data that cannot be resolved by the research team, further information may be obtained from the University's Data Protection Officer by emailing [dataprotection@exeter.ac.uk](mailto:dataprotection@exeter.ac.uk) or at [www.exeter.ac.uk/dataprotection](http://www.exeter.ac.uk/dataprotection)

As noted above, the interviews will be recorded via Zoom or Microsoft Teams. After the completion of each interview, the video recording will be stored on the University of Exeter's OneDrive. After the completion of each interview, the video recording will be stored on the University of Exeter's OneDrive. Once the research and the interview participant have finalised the interview transcript, the video recording will be securely deleted.

As early as possible in the data processing, all personal information will be rendered anonymous as far as is possible and consistent with the needs of the study. All research data collected will be anonymised. Any personal data and/or any information which may make the individual identifiable will

be redacted from the interview transcript. In accordance with the ICO Code on 'Anonymisation: managing data protection risk code of practice'<sup>1</sup>, the research data will be anonymised, with a number assigned to each interview transcript.

Any identifying information will be removed, as far as possible. A major challenge with regard to anonymisation is that the competition litigation is highly specialised, involving few highly qualified experts who are well known in the area. Given the "small population"<sup>2</sup> (Saunders et al, 2014 at 619), we will ensure respondents understand that the interview transcripts should be carefully checked for any sensitive information which should be redacted, so that no one is able to connect individual responses and any other information that identifies individual participants.

Every precaution will be taken to respect and safeguard each participant's privacy, and the confidentiality of their personal data. Any personal data which is collected will be separately stored. Personal data will be processed exclusively by Dr Danov. Personal details will not be revealed to other people. Any other personal data collected in the course of research will be retained for a 5-year period in Exeter. After that, the archived personal data will be securely destroyed by shredding and disposal as confidential waste of any hard copies and by secure electronic deletion of any electronic copies.

Copies of all the draft papers published within the framework of this project will normally be sent over to our interview participants with a view to promoting knowledge exchange. Should you wish to opt out of receiving such copies, please do contact [M.Danov@exeter.ac.uk](mailto:M.Danov@exeter.ac.uk).

### **Will I receive any payment for taking part?**

You will receive no payment for taking part in this study.

### **What will happen to the results of this study?**

The results of this study are to be published in academic papers which will be presented at various academic conferences.

The research data will be archived at the UK Data Archive < <http://www.data-archive.ac.uk/>, in order to allow for other researchers to use it as well.

Dr Danov is also in the process of seeking funding to organise three workshops, and it is very much hoped that some events will be organised where the preliminary research findings will be presented and discussed.

### **Who is organising and funding this study?**

The pilot study is conducted by Dr Danov, and it is financed by the University of Exeter.

### **Who has reviewed this study?**

This project has been reviewed by the Research Ethics Committee at the University of Exeter.

### **Further information and contact details**

For further information about this project and the relevant research data, please contact:

Dr Mihail Danov, Associate Professor, University of Exeter, School of Law, Amory Building, Rennes Drive, Exeter, EX4 4RJ. Telephone: +44(0)1392723162. Email: [M.Danov@exeter.ac.uk](mailto:M.Danov@exeter.ac.uk).

If you have concerns/questions about the research you would like to discuss with someone else at the University, please contact:

Dr Mathilde Pavis, Research Ethics Officer, University of Exeter, School of Law, Amory Building, Rennes Drive, Exeter, EX4 4RJ. Telephone: +44(0)1392723373. Email: [M.Pavis@exeter.ac.uk](mailto:M.Pavis@exeter.ac.uk).

Thank you for considering participating in this project.

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<sup>1</sup> ICO Code on 'Anonymisation: managing data protection risk code of practice' < <https://ico.org.uk/media/for-organisations/documents/1061/anonymisation-code.pdf> >.

<sup>2</sup> Saunders, B., Kitlinger, J. and Kitlinger, C., 'Anonymising interview data: challenges and compromise in practice' (2015) *Qualitative Research* 616.